



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE

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Secretary of Natural Resources

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David K. Paylor
Director

Maria R. Nold
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
WALTERS GRAIN & SUPPLY CO. d/b/a
COMMONWEALTH GIN
FOR
SOUTHAMPTON FACILITY**

Registration No. 61263

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Commonwealth Gin for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

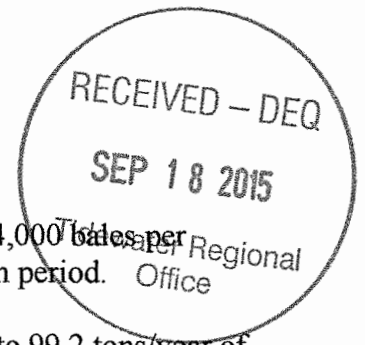
1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and -1301.
2. "CWG" or "Commonwealth Gin" means Walters Grain & Supply Co. d/b/a Commonwealth Gin, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. CWG is a "person" within the meaning of Va. Code § 10.1-1300.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.



3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the Commonwealth Gin facility, a cotton gin owned and operated by Commonwealth Gin and located at 29140 General Thomas Highway, Franklin, Virginia.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
7. "Permit" means the new source review stationary source permit to modify and operate a cotton gin, which was issued under the Virginia Air Pollution Control Law and the Regulations to Commonwealth Gin on December 7, 2009.
8. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.
9. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
10. "Va. Code" means the Code of Virginia (1950), as amended.
11. "VAC" means the Virginia Administrative Code.
12. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*), of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. CWG owns and operates the Facility located at 29140 General Thomas Highway, Franklin, Virginia.
2. On February 9, 2015, Department staff reviewed the Facility's 2014 Annual Emissions Update Report for compliance with the requirements of the Virginia Air Pollution Control Law and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observation:
 - CWG produced 70,416 of cotton lint in 2014;
 - CWG emitted 109.2 tons of particulate matter ("PM") in 2014;
 - CWG emitted 42.3 tons of particulate matter less than 10 microns ("PM-10").



3. Condition 7 of the Permit limits the production of cotton lint to 64,000 bales per year, calculated monthly as the sum of each consecutive 12-month period.
4. Condition 8 of the Permit limits total emissions from the Facility to 99.2 tons/year of PM and 38.4 tons/year PM-10.
5. Va. Code §10.1-1132.2(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.
6. On June 2, 2015, based on the review and follow-up information, the DEQ issued a NOV to CWG for the violations described in paragraphs C(2) through C(4), above.
7. In June 2015, Department staff conducted a telephone meeting with representatives of CWG to discuss the violations including the observations and legal requirements listed in the NOV.
8. Based on the review of the 2014 Annual Emissions Update Report and the June 2015 discussion with CWG, the Board concludes that CWG has violated Condition 7 and 8 of the Permit as described in paragraphs C(2) and C(4), above.
9. The violations described in paragraphs C(2) through C(4), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and 1316, the Board orders CWG and CWG agrees to pay a civil charge of \$6,750.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

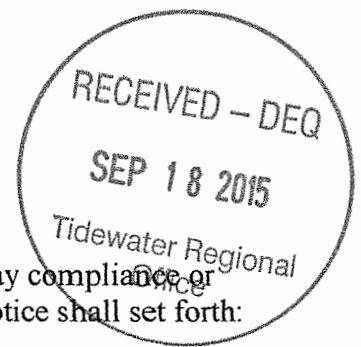
Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

CWG shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, CWG shall be liable for attorneys' fees of 30% of the amount outstanding.



SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of CWG, good cause shown by CWG, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, CWG admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. CWG consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. CWG declares it has received fair and due process under the Administrative Process Act, Va. Code and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by CWG to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. CWG does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. CWG shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. CWG shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. CWG shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are



anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

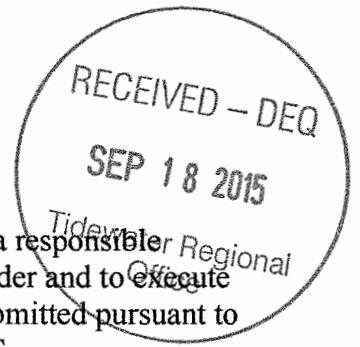
- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours and in writing within three business days, of learning of any condition above, which CWG intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and CWG. Nevertheless, CWG agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - (a) The Director or his designee terminates the Order after CWG has completed all of the requirements of the Order;
 - (b) CWG petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - (c) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to CWG.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve CWG from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by CWG and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.



13. The undersigned representative of CWG certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind CWG to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of CWG.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, CWG voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18 day of September, 2015.

Maria R. Nold
Maria R. Nold, Regional Director
Department of Environmental Quality

Commonwealth Gin voluntarily agrees to the issuance of this Order.

Date: 9/15/2015 By: [Signature] V-PRESIDENT
(Person) (Title)
Commonwealth Gin

Commonwealth of Virginia

City/County of Isle of Wight

The foregoing document was signed and acknowledged before me this 15th day of September, 2015, by G. Thomas Alphin, Jr., who is V-president / co-owner of Commonwealth Gin on behalf of the corporation.

Jennifer Sibilila
Notary Public

7635459

Registration No.

My commission expires:
Notary Seal:

